

DRAFT 10-11-13.1

~~WYOMING GAME AND FISH COMMISSION~~

~~CHAPTER 54~~

**~~HOME STATE LICENSE SUSPENSION PROCEDURES FOR THE
WILDLIFE VIOLATOR COMPACT~~**

~~Section 1. Authority.~~ These regulations are promulgated by authority of W.S. §23-1-302(xvi)(xxii) and §23-6-302, Article IV(a).

~~Section 2. Regulation.~~ The Wyoming Game and Fish Commission hereby adopts the following regulation governing the home state license suspension procedures for the Wildlife Violator Compact. This regulation shall remain in effect until modified or repealed by the Commission.

~~Section 3. Definitions.~~ For the purpose of this regulation, definitions shall be set forth as in Title 23, Wyoming Statutes and the Commission adopts the following definitions:

~~(a) "Compact" means the states of Arizona, California, Colorado, Georgia, Idaho, Indiana, Iowa, Maryland, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, Wyoming and any additional states that become compact members after the effective date of this regulation.~~

~~Section 4. Contested Cases.~~ Any suspension pursuant to the Wildlife Violator Compact Act shall be conducted pursuant to the Wyoming Administrative Procedure Act as outlined in W.S. §16-3-107 through W.S. §16-3-113 and pursuant to these regulations.

~~Section 5. Suspension Action.~~ The Wyoming Game and Fish Department shall initiate suspension action when it receives one (1) or both of the following:

~~(a) Notice of failure to comply by residents of Wyoming in any state that is a member of the Compact.~~

~~(b) Notice of Suspension in any state that is a member of the Compact.~~

~~Section 6. Notice of Suspension.~~

~~(a) Upon receipt of a notice of failure to comply or upon receipt of a notice of suspension of a person who has a mailing address in Wyoming, a written notice of suspension shall be prepared by the Violator Compact Administrator (Administrator) or his designee. Upon discovery by the Department of a person who has a mailing address outside of Wyoming, whose license privileges are under suspension in a compact member state, and who has obtained a license(s) in the State of Wyoming, a written notice of suspension shall be prepared by the Administrator or his designee.~~

~~(b) The written notice of suspension shall be sent to the violator by first class mail to the violator's last known address.~~

~~(c) The violator shall have twenty three (23) days after the date listed in the notice to respond in writing to the Administrator and request a review of the notice of suspension. For the Administrator to consider the request for review, the violator shall provide documentary evidence that supports one (1) or more of the responses in subsection (d) or (e) of this section. Following the Administrator's consideration~~

~~of the request for review and documentary evidence presented by the violator, the Administrator shall notify the violator in writing if the notice of suspension remains. If, upon consideration of the violator's request for review, the Administrator finds cause to support the suspension, the violator may request a hearing. To be timely, said request must be received by the Administrator within twenty three (23) days from the date affixed to the Administrator's letter denying the review. Failure on the part of the violator to request a hearing under this section shall automatically result in suspension of license privileges in Wyoming.~~

~~_____ (d) In cases of notice of suspension for the violator's failure to comply, the response shall only include one (1) or more of the following defenses:~~

~~_____ (i) Want of authority of the State of Wyoming to suspend under the provisions of the Wildlife Violator Compact;~~

~~_____ (ii) Failure of the issuing state to properly serve the violator;~~

~~_____ (iii) A claim by the violator that the case has been resolved in the issuing state; and/or,~~

~~_____ (iv) The alleged violator is not the proper party.~~

~~_____ (e) In cases of notice of suspension for the violator being suspended in a compact state, the violator's response shall include only one (1) or more of the following defenses:~~

~~_____ (i) Want of authority of the state of Wyoming to suspend under the provisions of the Wildlife Violator Compact;~~

~~_____ (ii) That the suspension in the issuing state would not be a suspendable offense in Wyoming;~~

~~_____ (iii) That the violator can demonstrate through court documents that the case is under appeal or the court has amended terms of the suspension; and/or,~~

~~_____ (iv) The alleged violator is not the proper party.~~

~~_____ (f) Once a determination is made by the Administrator that license privileges are suspended, the violator cannot legally apply for, obtain or utilize any existing or future license to hunt, fish and/or trap.~~

~~_____ **Section 7. Burden of Proof.** In all cases, the burden of proof shall rest with the violator.~~

~~_____ **Section 8. Hearing.** Upon receipt of request for a hearing, the Administrator shall hold a contested case hearing within ninety (90) days. No hearing shall be held unless the request for hearing is accompanied with at least one (1) of the aforementioned defenses.~~

~~_____ (a) Formal Hearing Procedures. Within at least twenty (20) days prior to the hearing the violator shall be advised of:~~

~~_____ (i) The time, place, and nature of the hearing; and,~~

~~_____ (ii) That the hearing is being held pursuant to the Wildlife Violator Compact
W. S. §23-6-301 et., seq.~~

~~_____ **Section 9. Docket.**~~

~~_____ (a) When formal proceedings are initiated and notice has been afforded, the case shall be assigned a number and entered upon a docket provided for such purpose.~~

~~———— (b) There shall be established a separate file for each docketed case in which shall be systematically placed all papers, pleadings, documents, transcripts, evidence, and exhibits pertaining thereto, and all such items shall have noted thereon the docket number assigned, and the date of filing.~~

~~———— **Section 10. Continuance.** For good cause shown, continuance may be granted at the discretion of the Administrator.~~

~~———— **Section 11. Default.** The Administrator may enter an order based on the allegations in the notice of suspension when the violator has not answered in writing within twenty three (23) days, or in any case in which the violator or the violator's representative has not appeared at a scheduled hearing of which the violator had notice.~~

~~———— **Section 12. Hearing Officer.** The Administrator or such designee as chosen by the Administrator shall be the hearing officer.~~

~~———— **Section 13. Discovery.** In all formal proceedings before the Administrator, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act, however, said discovery shall normally be restricted to obtaining information on Wyoming's jurisdiction to suspend under provisions of the Wildlife Violator Compact; to obtaining information on whether the original citation was received by the violator; to prove insufficient service of process of the original citation; and/or, to obtaining information to prove the case has been resolved.~~

~~———— **Section 14. Subpoenas.**~~

~~———— (a) The Administrator or his designee may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths.~~

~~———— (b) Service of a subpoena shall be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.~~

~~———— **Section 15. Witnesses.**~~

~~———— (a) All persons testifying at any hearing before the Administrator shall stand and be administered a standard oath.~~

~~———— (b) No testimony shall be received from a witness except under oath or affirmation.~~

~~———— (c) The party calling a witness shall bear the costs associated with witness's appearance.~~

~~———— (d) The Administrator or Administrator's designee shall retain the right and opportunity to examine any witness upon the conclusion of all testimony offered by a particular witness.~~

~~———— **Section 16. Representation.**~~

~~———— (a) Any respondents may represent themselves or be represented by counsel, provided that such counsel is licensed to practice law in the State of Wyoming, or associate at the hearing with one (1) or more attorneys licensed to practice law in the State of Wyoming.~~

~~———— (b) A request for withdrawal from representation shall be made by the attorney in writing to the Administrator and may be granted only upon good cause shown.~~

~~———— (c) In any case before the Administrator, an appearance in person or the filing of an answer shall constitute an appearance of record by an attorney.~~

~~———— (d) A representative of the Attorney General's office may present to the Administrator all matters enumerated and described in the notice.~~

~~———— (e) In all matters before the Administrator, the Administrator may request the Attorney General or a specially appointed person to be present throughout the hearing to assist and advise the representative or the Administrator conducting the hearing.~~

~~———— **Section 17. Pre-hearing Conference.**~~

~~———— (a) At a time on or before the day of any hearing, the hearing officer may direct the parties to appear before the Administrator to consider:~~

~~———— (i) the simplification of the issues;~~

~~———— (ii) the necessity or desirability of amending the pleadings;~~

~~———— (iii) the possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;~~

~~———— (iv) formulating procedures to govern the hearing; and/or,~~

~~———— (v) such other matters as may aid in the disposition of the case.~~

~~———— (b) Such conferences shall be conducted informally. An order shall be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties and limitation of the issues to those not disposed of by admission or agreements of counsel and the parties.~~

~~———— **Section 18. Rules of Civil Procedure.** The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure insofar as they are applicable and not inconsistent with the matter before the Administrator and applicable to the rules and order promulgated by the Commission shall apply.~~

~~———— **Section 19. Decisions.**~~

~~———— (a) Proposed Decisions:~~

~~———— (i) At the discretion and direction of the Administrator, the parties may file proposed findings of fact, conclusions of law and order after the hearing and before the deadline announced in the hearing's closing announcements.~~

~~———— (ii) At the discretion and direction of the Administrator, the hearing officer shall file proposed findings of fact, conclusions of law and order.~~

~~———— (b) Final Decisions. Proposed decisions shall be given consideration but are not binding upon the Administrator. All final decisions shall be issued by the Administrator and be based exclusively upon the evidence in the record and matters officially noted. All final decisions issued by the Administrator shall be served to all parties by first class mail or personal service.~~

~~———— (c) Consent Agreements, Settlements, Other.~~

~~_____ (i) Results of consent agreements, settlements, and other final decisions entered by the Administrator shall become a part of the public record pursuant to the content and terms of the agreement.~~

~~_____ (d) Record.~~

~~_____ (i) Unless otherwise provided in this section, copies of the Administrator's final decision filed as a result of formal proceedings heard by or settled by the Administrator shall be placed in the public file.~~

~~_____ (ii) All completed investigation records shall be retained in a private file not subject to public inspection, but available to the violator.~~

~~_____ **Section 20. Appeals to District Court.** Appeals from Administrator's decision shall be taken to the district court having jurisdiction and proper venue in accordance with applicable statutes and the Wyoming Rules of Appellate Procedure.~~

~~_____ **Section 21. Transcript in Case of Appeal.** In the case of an appeal to the district court, the appellant shall pay and arrange for the transcript of the testimony. The transcript shall be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case or by oath of a transcriber who transcribed any tape recording.~~

~~_____ **Section 22. Reinstatement Procedures.** Where suspension is the result of failure to comply, the burden of proof for reinstatement lies with the violator.~~

~~_____ (a) The violator may apply for reinstatement under the following conditions.~~

~~_____ (i) Evidence of compliance is shown to Wyoming by the following:
All of these documents may be submitted to the Administrator by electronic transmission, excluding voice transmission.~~

~~_____ (A) Certificate from the court of issuing state that laws have been complied with.~~

~~_____ (B) Copy of court judgment that laws have been complied with.~~

~~_____ (C) The issuing state issues a Notice of Compliance for Wyoming.~~

~~_____ (b) Within thirty (30) working days of receipt of information required from the violator in Section 22, the Administrator shall review the information provided and if appropriate reinstate the violator's license privileges in Wyoming.~~

~~_____ (c) When suspension is the result of a notice of suspension, the reinstatement is automatic following the suspension period. In such cases, the violator's license privileges shall be automatically reinstated.~~

~~_____ **Section 23. Violation of Commission Regulations.** Failure to abide by the provisions of this regulation shall be punishable as provided by the Wyoming statutes for violations of Commission regulations.~~

~~_____ **Section 24. Savings Clause.** If any provision of these regulations is held to be illegal or unconstitutional, such a ruling shall not affect other provisions of these regulations which can be given effect without the illegal or unconstitutional provisions; and, to this end, the provisions of the regulations are severable.~~

WYOMING GAME AND FISH COMMISSION

By: _____

Jerry Sanders, President

Dated: September 9, 2003